IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

**O R D E R**

Mahendra Kumar Vs. State of Rajasthan

**S.B.CR. MISC. PETITION NO.1920/2007**

DATE OF ORDER :: December 08, 2007

**PRESENT**

**HON'BLE MR.JUSTICE H.R.PANWAR**

Mr.Vijay Bishnoi for the petitioner.
Mr.Ashok Upadhyaya, P.P. for the State

**BY THE COURT:**

By an application, the petitioner seeks dispensing with filing of the certified copy of the order dt. 20.11.2007 passed by the Judicial Magistrate, Nagaur.

Having heard learned counsel for the petitioner, the application is allowed. Filing of certified copy of the order dt. 20.11.2007 is dispensed with.

Issue notice for final disposal.

Mr. Ashok Upadhyaya, learned Public Prosecutor accepts the notice on behalf of the respondent State.

With the consent of the learned counsel for the parties, the matter is finally heard and is being decided at the admission

stage.

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner has challenged the order dt.28.11.2007 passed by the learned Additional Sessions Judge, Nagaur (for short `the revisional court' hereinafter) whereby the revision petition filed by the petitioner against the order dt. 20.11.2007 passed by the Judicial Magistrate, Nagaur (for short `the trial court' hereinafter) dismissing the application filed by the petitioner under section 457 Cr.P.C. seeking interim custody of the truck bearing No.RJ-21-GA-2551 on "Supurdaginama" during the pendency of the case, was dismissed.

I have heard learned counsel for the parties. Carefully gone through the orders passed by both the courts below.

It appears from the order impugned that the forest produce "Khejri" trees have been transported in the said truck by the petitioner, which was intercepted by the police and seized the truck and the wood therein in violation of section 41 and 42 of the Rajasthan Forest Act, 1953 (for short `the Act' hereinafter) keeping in view the decision of Hon'ble Supreme Court in State of Karnataka vs. K. Krishnan, Cr.L.R. 2000 (SC) 65 declining to release the truck on "Supurdaginama". However, the Apex Court in the judgment referred hereinabove observed that if at all the vehicle is released then, it must be minimum on the bank guarantee. In the circumstances, therefore, in my

view, no useful purpose will be served in allowing the truck to remain at Police Station for indefinite period exposing to heat, which ultimately may result in diminishing its value and, therefore, in my view, ends of justice would be met if the truck in question is released on furnishing a bank guarantee and a solvent security.

In the result, the orders passed by the trial court as well as by the revisional court are set aside and it is directed that the truck in question be released in favour of the petitioner on "Supurdaginama" during the pendency of the case provided the petitioner furnishes a bank guarantee in the sum of Rs.1,00,000/- and a personal bond of Rs.5,00,000/- to the satisfaction of the trial court on the condition that the petitioner shall keep the truck in same condition and shall not alienate or transfer during the pendency of the case and shall produce before the trial court as and when order to do so.

**[H.R.PANWAR],J.**

m.asif/-